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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,607	10/26/2005	Chhiu-Tsu Lin	2384.00060	2108

7590 04/28/2009
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EXAMINER

JARRETT, LORE RAMILLANO

ART UNIT	PAPER NUMBER
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1797

MAIL DATE	DELIVERY MODE
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04/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/540,607	Applicant(s) LIN, CHHIU-TSU	
	Examiner LORE JARRETT	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 12-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/27/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-11, in the reply filed on 2/27/09 is acknowledged.
2. Claims 12-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/27/09.

Information Disclosure Statement

3. No IDS was filed.

Specification

4. The disclosure is objected to because of the following informalities: the term, "calorimetric" is recited in paragraphs, i.e. [0012], [0024], [0025], [0035], [0038, and in other paragraphs of the published Application. It appears that this is a misspelling and should be changed to "colorimetric."
5. Furthermore, the term, "riot," is recited in paragraph, i.e. [0025], of the published Application. It appears that this is a misspelling and should be changed to "not."

Appropriate corrections are required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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7. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites the limitation "the detector." There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 1-11** are rejected under 35 U.S.C. 102(b) as being anticipated by Dunn et al. ("Dunn," US 5200334).

As to claims 1, 6, and 11, Dunn discloses a charge-transfer chemical sensor comprising: a sol-gel material affixable to a predetermined surface, and indicating means within said sol-gel for detecting and signaling a presence of at least one chemical (i.e. col. 1, line 53 to col. 2, line 13; col. 7, line 59 to col. 10, line 5).

Furthermore, the claim language, "indicating means . . . for" does not invoke 35 USC 112, sixth paragraph because the claim language appears to be modified by sufficient structure, material, or acts for achieving the specified function.

As to claims 2 and 7, Dunn discloses that the indicating means includes colorimetric signal means for signaling the presence of at least one chemical (i.e. col. 1, line 53 to col. 2, line 13; col. 7, line 59 to col. 10, line 5). Furthermore, the claim

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language, “colorimetric signal means for” does not invoke 35 USC 112, sixth paragraph because the claim language appears to be modified by sufficient structure, material, or acts for achieving the specified function.

As to claims 3 and 8, Dunn discloses that the signal means is selected from the group consisting essentially of an indicator with Cu (11), an indicator with CuZnSOD (i.e. col. 1, line 53 to col. 2, line 13; col. 7, line 59 to col. 10, line 5).

As to claims 4 and 9, Dunn discloses that the sol-gel is an optically transparent xerogel (i.e. col. 1, line 53 to col. 2, line 13; col. 7, line 59 to col. 10, line 5).

As to claims 5 and 10, Dunn discloses that his sensor is capable of detecting components selected from the group consisting essentially of chemical warfare agents, agricultural pesticides, and insecticides because Dunn discloses the structural features of the claimed sensor. Furthermore, the type of chemical being detected does not appear to positively limit the structure of the claimed sensor.

10. **Claims 1-11** are rejected under 35 U.S.C. 102(b) as being anticipated by Wicks et al. (“Wicks,” US 5637507).

As to claims 1, 6, and 11, Wicks discloses a charge-transfer chemical sensor comprising: a sol-gel material affixable to a predetermined surface, and indicating means within said sol-gel for detecting and signaling a presence of at least one chemical (i.e. col. 4, line 3 to col. 5, line 10; col. 5, line 49 to col. 10, line 64).

Furthermore, the claim language, “indicating means . . . for” does not invoke 35 USC 112, sixth paragraph because the claim language appears to be modified by sufficient structure, material, or acts for achieving the specified function.

As to claims 2 and 7, Wicks discloses that the indicating means includes colorimetric signal means for signaling the presence of at least one chemical (i.e. col. 4, line 3 to col. 5, line 10; col. 5, line 49 to col. 10, line 64). Furthermore, the claim language, "colorimetric signal means for" does not invoke 35 USC 112, sixth paragraph because the claim language appears to be modified by sufficient structure, material, or acts for achieving the specified function.

As to claims 3 and 8, Wicks discloses that the signal means is selected from the group consisting essentially of an indicator with Cu (11), an indicator with thymol blue/Fichlor (i.e. col. 4, line 3 to col. 5, line 10; col. 5, line 49 to col. 10, line 64).

As to claims 4 and 9, Wicks discloses that the sol-gel is an optically transparent xerogel (i.e. col. 4, line 3 to col. 5, line 10; col. 5, line 49 to col. 10, line 64).

As to claims 5 and 10, Wicks discloses that his sensor is capable of detecting components selected from the group consisting essentially of chemical warfare agents, agricultural pesticides, and insecticides because Dunn discloses the structural features of the claimed sensor. Furthermore, the type of chemical being detected does not appear to positively limit the structure of the claimed sensor. (i.e. col. 4, line 3 to col. 5, line 10; col. 5, line 49 to col. 10, line 64).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LORE JARRETT whose telephone number is (571)272-7420. The examiner can normally be reached on Mon. to Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LORE JARRETT/
Examiner, Art Unit 1797

4/27/09